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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,181	04/22/2004	Klaus-Dieter Nittel	CHEMMT-206.1 CON	7728
24972	7590	06/01/2009		
FULBRIGHT & JAWORSKI, LLP			EXAMINER	
666 FIFTH AVE			ZHENG, LOIS L	
NEW YORK, NY 10103-3198				
			ART UNIT	PAPER NUMBER
			1793	
			MAIL DATE	DELIVERY MODE
			06/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/830,181

Applicant(s)

NITTEL ET AL.

Examiner

LOIS ZHENG

Art Unit

1793

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 17-25.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) _____.
13. ☒ Other: See Continuation Sheet.

/Roy King/
Supervisory Patent Examiner, Art Unit 1793

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues that Hansen teaches specific ranges for its coating solution ingredients and they are not to be altered. The examiner does not find applicant's argument convincing because Hansen uses open-ended phrases such as "containing" and "comprising" that allow presence of additional ingredients. In addition, the concentrations of the coating ingredients as taught by Hansen overlap the claimed coating ingredient concentrations. Therefore, a prima facie case of obviousness exists. Applicant further argues that Hansen teaches away from neutralizing acid because Hansen teaches that the addition of more free P2O5 is permitted. The examiner does not find applicant's argument persuasive because Oei teaches using manganese carbonate to control free acid concentration. Therefore, one of ordinary skill in the art would have been motivated to add manganese carbonate as suggested by Oei to the coating composition of Hansen in view of Clifford in order to achieve free acid control. Applicant reiterates that adding nitroguanidine as claimed improves process time. The examiner maintains her position that nitroguanidine is a known accelerator, as shown by Clifford. It's ability to improve process time is not unexpected. Applicant also reiterates that Bittner teaches zinc or zinc manganese phosphate coating on galvanized or alloy galvanized surfaces, no on iron or steel surfaces as claimed. The examiner maintains her position that the combination of Hansen, Clifford and Bittner is proper because Hansen and Bittner both are concerned with sludge reduction in manganese containing phosphate coating solutions.

Continuation of 13, Other: Since new amendment to claim 17 does not change the scope of finally rejected claim 17, the new amendment is entered. The rejections of claims 17-25 are also maintained.